

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

**JESSE JAMES RAYBURN
ADC #153338**

PLAINTIFF

v. No. 2:14-cv-7-DPM-JTR

**BURL, Warden, East Arkansas Regional
Unit, ADC; LARRY, Corporal, East Arkansas
Regional Unit, ADC; and HEATH, Lieutenant,
East Arkansas Regional Unit, ADC**

DEFENDANTS

ORDER

1. Rayburn has filed this *pro se* § 1983 action alleging that Burl, Larry, and Heath violated his constitutional rights. *No 2 & 8.* The Court must screen his complaint. 28 U.S.C. § 1915A.

2. Rayburn has stated a plausible claim against Corporal Larry and Lieutenant Heath. Rayburn says that they subjected him to inhumane conditions of confinement when they forced him to share a cell with an inmate who was quarantined for having scabies. The Court directs the Clerk to prepare a summons for Corporal Larry and Lieutenant Heath. The Court directs the U.S. Marshal to serve the summons, a copy of Rayburn's complaint as amended, *No 2 & 8*, and this Order on each of them through the ADC Compliance Office without prepayment of fees and costs or security. If either

Larry or Heath is no longer an ADC employee, then the ADC Compliance Office must file the unserved defendant's last known private mailing address under seal.

3. Rayburn has not pleaded any facts suggesting that Burl personally participated in the alleged constitutional violation. Rayburn seeks to hold Burl vicariously liable for the actions of his subordinates, which is not a permissible basis for recovery in a § 1983 action. *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009); *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997). The Court therefore dismisses Rayburn's claim against Warden Burl without prejudice.

4. The Court certifies that an *in forma pauperis* appeal from this Order would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.


D.P. Marshall Jr.
United States District Judge

10 March 2014